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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,760	05/18/2006	Makoto Yoshida	SH-0053PCT/US	3570
21254 7590 07/20/2010 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
EXAMINER DEHGHAN, QUEENIE S				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
07/20/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/579,760

Applicant(s)

YOSHIDA, MAKOTO

Examiner

QUEENIE DEHGHAN

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Queenie Dehghan/
Examiner, Art Unit 1791

Continuation of 3. NOTE: The proposed amendments changes the scope of the claims from extending a stopping period of the burner to extending a predetermine period in which relative reciprocation is stop, wherein the predetermined period in claim 1 is interpreted as a time frame within which the relative reciprocation will stop.

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the rejection of claim 2 under 112 first paragraph, the applicant points to the areas of the specification for support for the phrase "in a predetermined period". The issue with claim 2 is not whether the phrase "in a predetermine period" is supported in the specification. Portions of the specification, as pointed out by the applicant indicates a stopping period that is no less than 3 seconds and no more than 60 seconds. However, the phrase "in a predetermine period" as recited in claim 1 is referring to a time frame within which the relative reciprocation will stop, and not an actual stopping period. Clearly there is discrepancy between "in a predetermined period" and the stopping period. As admitted by the applicant, "the Examiner's above analysis of the phrase "in a predetermined period" is clearly not supported in the specification". That is exactly the point and the basis for the 112 first paragraph rejection. Claim 1 refers to a time frame within which the reciprocation will stop, but claim 2 refers to a time frame of 3 to 60 seconds, wherein the time frame is a stopping time, as indicated by the specification.

Regarding Ooishi '737, it is unclear what argument is actually being presented since the applicant merely recites the same claim limitation. That is, the applicant alleges Ooishi does not teach stopping a relative reciprocation in the predetermine period, but does not elaborate on this allegation. Ooshi teaches a traveling period of 16.3 seconds before turning around. This traveling period is the time the relative reciprocation occurs before stopping the reciprocation. Furthermore, this period falls within the claimed range of 3 to 60 seconds.

Regarding Ooishi '666, the applicant argues Ooishi '666 fails to disclose a method comprising stopping the relative reciprocation in a predetermined period. Once again, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Also, the applicant is reminded these are product by process claims, which are not limited to the method steps of the process.

The applicant has not added any new arguments regarding the remaining supporting references.